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HUMAN RIGHTS COMMITTEE
Sixty-sixth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

Cambodia

1. The Committee considered the initial report of Cambodia (CCPR/C/81/Add.12) at its 1758th, 1759th and 1760th meetings (CCPR/C/SR.1758, 1759 and 1760) held on 14th and 15th of July 1999 and adopted the following concluding observations at its 1770th and 1771st meetings (CCPR/C/SR 1770-1771) held on 22 July 1999.

A. Introduction

2. The Committee welcomes the State party's comprehensive and detailed initial report which pointed to many difficulties. It appreciates the information provided by the delegation in its dialogue with the Committee.

B. Positive aspects

3. The Committee welcomes the fact that the State party has begun the process of reforming and training the judiciary which was destroyed in the period of Khmer Rouge rule.

4. The Committee also welcomes the fact that the Constitution calls for recognition of and respect for human rights as stipulated in international instruments, including the Covenant.

C. Factors and difficulties affecting implementation of the Covenant

5. The State party has undergone a long period of conflict and violence which resulted in the killing of a high proportion of its population, the forced exile of many others, the destruction of the main institutions of the State, including the judiciary, and the undermining of its economic and social life. There remains an unacceptable level of violence and use of weapons.

D. Principal areas of concern and recommendations

6. The Committee is concerned that Khmer Rouge leaders have not yet been brought to trial.

The State party should take steps without delay to ensure that the alleged perpetrators of gross human rights violations and crimes against humanity are brought to trial before properly constituted independent courts and in accordance with generally accepted international standards.

7. The Committee is concerned that under article 31 of the Constitution equality rights apply to "Khmer citizens" and that other provisions protect the rights of "Khmer citizens".

The State party should ensure that Covenant rights are enjoyed without distinction.

8. a) The Committee is concerned that the justice system remains weak due to the killing or expulsion of professionally trained lawyers during the conflict, the lack of training and resources for the new judiciary and their susceptibility to bribery and political pressure. The Committee is also concerned that the Supreme Council of the Magistracy is not independent of government influence, and that it has not yet been able to deal with the many allegations of judicial incompetence and unethical behaviour.
b) The Committee is further concerned that the judiciary seeks the opinion of the Ministry of Justice in regard to the interpretation of laws and that the Ministry issues circulars which are binding on judges.

The State party should take urgent measures to strengthen the judiciary and to guarantee its independence, and to ensure that all allegations of corruption or undue pressure on the judiciary are dealt with promptly.

9. The Committee is seriously concerned that the effect of Article 51 of the Cambodian Common Statute of Civil Servants, in requiring permission from the relevant Minister (or from the Council of Ministers) before a criminal prosecution against a civil servant (or senior civil servant) may be initiated, tends to lead to impunity by preventing the investigation and prosecution of public officials, including law enforcement officers responsible for human rights violations. It notes the statement by the delegation that this law

is not applied to members of the security forces and that its repeal has been proposed.

The State party should repeal Article 51 of the Common Statute of Civil Servants without delay.

10. The Committee is concerned that the State party has not yet established an independent and legally constituted body with power to oversee and report on the implementation of human rights obligations, and to investigate complaints of human rights violations, and that the National Human Rights Committee referred to in para 27 of the report has neither the resources nor the independence to carry out this function. Furthermore, while the State party concedes that its judiciary is lacking in resources and is plagued by corruption, it puts undue reliance on the courts to investigate human rights violations by public officials.

A permanent and independent human rights monitoring body should be established by legislation, with adequate powers and resources to receive and investigate allegations of torture or other abuses of power by public officials.

11. The Committee is alarmed at reports of killings by the security forces, other disappearances and deaths in custody, and at the failure of the State party to investigate fully all these allegations and to bring the perpetrators to justice. It is particularly concerned at the lack of action in regard to the many deaths and disappearances that occurred during 1997 and during the 1998 elections, and in regard to the delay in completing the investigation of the grenade attack on demonstrators on 30 March 1997.

Action should be taken without delay to prevent the further occurrence of such incidents, to investigate all such allegations, and to bring those alleged to have violated Covenant rights to trial.

12. The Committee is concerned at statements in the report that the laws relating to arrest and preventive and pre-trial detention are not strictly observed, that unlawful and arbitrary detention is common and that many persons are kept in pre-trial detention longer than the period of six months permitted under Cambodian law. It is especially concerned that the provisions of the Transitional Criminal Code (arts 10-22), under which the court must order immediate release when a person is arrested without warrant, are not always complied with by the police authorities. It is also concerned about reports of obstruction of the judicial process by the police.

The State party should take firm measures, including training of the judiciary and the police in human rights, to ensure strict compliance with its Criminal Code and with article 9 of the Covenant.

13. The Committee is seriously concerned at statements in the report relating to the frequency of physical and mental coercion of accused persons and the beating of detainees during interrogation, and that there have been few investigations or prosecutions in respect of allegations of torture and ill treatment. The Committee is also concerned at reports that women prisoners are vulnerable to rape by prison guards and that despite the prohibition of the use of shackles and chains in prisons, there continue to be reports of their use.

The State party should act without delay to prevent these abuses, which violate articles 7 (1) and 10 (1) of the Covenant, to investigate alleged violations and bring the perpetrators to justice; it should ensure that confessions obtained by force are excluded from evidence, that women prisoners are guarded only by female warders, and that there are effective procedures for making and investigating complaints by prisoners and detainees.

14. The Committee is concerned at reports of serious overcrowding in prisons and at the level of ill-health among prisoners and the lack of health care.

The State party should take urgent steps to ensure that article 10 of the Covenant is fully implemented and that basic minimum standards are met in all prisons and places of detention.

15. The Committee is concerned at reports that children are detained in juvenile detention facilities for considerable periods without charge, and without access to a lawyer or to court. It is particularly concerned that these children are subjected to beatings and to ill-treatment.

The State party should ensure strict observance of articles 7,9 and 10 and should take appropriate measures to ensure protection of children in accordance with article 24 of the Covenant.

16. The Committee is seriously concerned at the reports of extensive trafficking of men and women for labour, and of women and children for purposes of sexual exploitation and forced prostitution. It is particularly concerned that the laws which prohibit these abuses are not enforced.

The State party should take positive steps to eradicate these practices, to protect the victims, to prosecute those responsible and to enforce anti-corruption measures in respect of law enforcement officers.

17. The Committee is concerned that prevalent attitudes concerning the subordinate role of women in the family and in society are a substantial obstacle to the equal enjoyment of rights by women, and impede their education and opportunities for employment and full

participation in political life. The Committee is also concerned that parents decide upon marriage, that children are forced into marriage, that rape in marriage is not an offence and that the authorities do not provide support to women who complain of domestic violence.

The State party, in conformity with its obligations under the Covenant, should ensure greater access to education by women and girls, equal employment opportunities for women, and the full and equal participation of women in political life. It should also take steps to ensure respect for laws prohibiting marriage without full and free consent, and introduce measures to enable women to seek effective protection of the law in case of domestic violence.

18. The Committee is concerned at reports concerning violent attacks on and harassment of journalists and suspension of publications. It is also concerned at the Press Laws which impose license requirements and prohibit publications which, *inter alia*, cause harm to political stability or which insult national institutions. These broadly defined offences are incompatible with the restrictions permissible under paragraph 3 of article 19 of the Covenant.

The State party should take action to protect journalists and to investigate acts of violence and bring the perpetrators to justice. The Press Laws should be brought into compliance with article 19 of the Coenant.

19. The Committee regrets the lack of specific information concerning the indigenous peoples and especially hill tribes, and about the measures taken to ensure that their rights under article 27 to enjoy their cultural traditions, including their agricultural activities, are respected.

Immediate measures should be taken to ensure that the rights of members of indigenous communities are respected; further information on these issues should be included in the State party's second periodic report.

20. The Committee requests that the State party submit its second periodic report by ..... It recommends that the State party disseminate these concluding observations in the Cambodian language widely throughout the community.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Mexico

1. The Committee considered the fourth periodic report of Mexico (CCPR/C/123/Add.1) at its 1762nd and 1763rd meetings (CCPR/C/SR.1762 and 1763), held on 16 July 1999, and adopted the following concluding observations at its 1771st to 1773rd meetings, held on 22 and 23 July 1999.

A. Introduction

2. The Committee welcomes the timely submission of the fourth periodical report of Mexico and of an additional report and other information providing a detailed and up-to-date description of the human rights situation in the State party. It notes that the Committee's comments relating to consideration of the third periodic report of Mexico were taken into account by the State party when preparing its latest report. The Committee notes that the State party was represented by a large delegation which was able to reply to many of the Committee members' concerns in the course of the analysis of the report.

B. Positive factors

3. The Committee takes note with satisfaction of the improvements introduced since the submission of the previous report, including the decision of 8 June 1999, approved by Congress, to allow the National Human Rights Commission independence and the launch of several programmes proposed by the latter to improve the situation of women, children and the family, the

programme concerning presumed disappearances and the release of imprisoned indigenous persons. The Committee takes note of the establishment of National Programmes for the Protection of Human Rights, the Development Plan 1995-2000 and the Public Security programme, which are positive developments.

4. The promulgation of the Federal Public Advocacy Act and of the Federal Act for the Prevention and Punishment of Torture constitute significant advances as far as investigating human rights violations and preventing impunity are concerned.

5. The Committee notes with satisfaction the electoral reforms introduced with a view to holding more pluralistic and transparent elections.

C. Principal subjects of concern and recommendations

6. The Committee considers it a matter of the gravest concern that not all forms of torture are necessarily covered by law in all Mexican States, and that there is no independent body to investigate the substantial number of complaints regarding acts of torture and cruel, inhuman or degrading treatment. It is also a matter of concern that the acts of torture, enforced disappearances and extrajudicial executions which have taken place have not been investigated; that the persons responsible for those acts have not been brought to justice; and that the victims or their families have not received compensation.

> The State must take the necessary measures to attain full compliance with articles 6 and 7 of the Covenant, including measures to provide remedies against torture in all the States of Mexico.

7. The Committee is concerned that the possibility exists of placing on an accused person the burden of proof that a confession has been obtained by coercion, and that confessions obtained by coercion may be used as evidence against an accused person.

> The State party should amend the provisions of the law as necessary to ensure that the burden of proof that a confession used in evidence has been made by the accused person of his own free will shall lie with the State, and that confessions obtained by force cannot be used as evidence in trial proceedings.

8. The Committee is furthermore concerned by the increase of action by the armed forces within society, particularly in the States of Chiapas, Guerrero and Oaxaca, where they conduct activities pertaining to the police forces.

> Order should be maintained within the country through the civil security forces.

9. The Committee is deeply concerned by the fact that no institutionalized procedures exist for the investigation of allegations of violations of human rights presumed to have been committed by members of the armed forces and by the security forces, and that as a consequence those allegations are frequently not investigated.

The State party should establish appropriate procedures to ensure that independent investigations are conducted into allegations of violations of human rights involving members of the armed forces and the security forces and that the persons accused of such violations are brought to trial. The State should also establish effective remedies for the victims.

10. The Committee has taken note of the combined effect of the implementation of the 1995 Act Establishing Coordination between National Public Security Systems and the 1996 Act Against Organized Crime, as well as the extension of the concept of "flagrancy" to add to the number of circumstances in which an arrest can be made without a warrant from the competent official of the judiciary. This implies a serious threat to the security of persons. The Committee has also taken note of the fact that in cases of arrest in "flagrante delicto" and in cases of emergency an arrested person is handed over to the Office of the Public Prosecutor, which may hold that person in detention for 48 hours (and, in special circumstances, up to 96 hours) before bringing him or her before a court. The Committee deplores the fact that arrested persons do not have access to legal counsel before the time when they have to make a formal statement to the Office of the Public Prosecutor and that the situation regarding access by members of an arrested person's family was not clarified during consideration of the report of Mexico.

The State party should immediately amend the relevant legal provisions and establish procedures compatible with the provisions of article 9.

11. The criminal procedure established and applied in Mexico constitutes an obstacle to full compliance with article 14 of the Covenant, which requires a trial to take place before a judge, in the presence of the accused person and at a public hearing.

The State party should establish a procedure ensuring that accused persons enjoy all their rights in a suit at law in accordance with the above-mentioned article 14.

12. The Committee observes that, although a state of emergency has not been proclaimed in areas in conflict, the population has been subjected to derogations from its rights corresponding to a state of emergency, such as control points impeding freedom of movement.

All necessary derogations from the rights guaranteed by the Covenant must comply with the conditions laid down in article 4 of the Covenant.

13. The Committee is concerned at the obstacles to the free movement of foreigners, especially the members of non-governmental organizations investigating human rights violations on Mexican territory, and in particular the fact that residence permits have been cancelled and visas refused for the same reasons.

The State party should lift the restrictions on the access and activities of persons entering Mexico to investigate human rights violations.

14. The Committee deplores the serious violations of freedom of expression represented by the frequent murders of journalists and by the acts of intimidation making it difficult for representatives of the press to exercise their profession freely in Mexico or preventing them from doing so. It also deplores the existence of the offence of "defamation of the State".

Journalists should be guaranteed the freedom of expression laid down in article 19 and other related provisions of the Covenant so that they can carry on their activities without hindrance. Furthermore, the criminal offence of "defamation of the State" should be abolished.

15. The Committee also deplores the situation of street children, which is constantly worsening. These are the children who are at greatest risk of sexual violence and who are exposed to the practices of sexual trafficking.

The State should take effective measures for the protection and rehabilitation of these children in accordance with article 24 of the Covenant, including measures to end prostitution, child pornography and the sale of children.

16. The Committee is concerned at the level of violence against women, including the many reported cases of abduction and murder which have not led to the arrest or trial of the perpetrators and the many allegations of rape or torture by the security forces of women in detention which the latter are fearful of reporting.

The State party should take effective measures to protect the security of women, to ensure that no pressure is brought to bear on them to deter them from reporting such violations and to ensure that all allegations of abuse are investigated and the perpetrators brought to justice.

17. The Committee is concerned by information to the effect that Mexican women seeking employment in foreign enterprises in the frontier areas of Mexico ("maquiladoras") are subjected to pregnancy tests and required to respond to intrusive personal questioning, and that some women employees have been administered anti-pregnancy drugs. It is also concerned that those allegations have not been seriously investigated.

Measures should be taken to investigate all such allegations with a view to ensuring that women whose rights to equality and to privacy have been violated in this way have access to remedies and to preventing such violations from recurring.

18. The State party should approve measures to ensure equality of opportunity for women, their full participation in public life in conditions of equality and the removal of all remaining discriminatory provisions in regard to marriage, divorce and remarriage.

19. Despite the acknowledgement in article 4 of the Constitution of the multicultural composition of the Mexican nation, originally founded by its indigenous peoples, and the determination of the State party to settle the question of self-determination for indigenous communities, article 27 of the

Constitution seems to protect only certain categories of rights with regard to indigenous lands and still leaves the indigenous populations exposed to a wide range of human rights violations.

The State party should take all necessary measures to safeguard for the indigenous communities respect for the rights and freedoms to which they are entitled individually and as a group; to eradicate the abuses to which they are subjected; and to respect their customs and culture and their traditional patterns of living, enabling them to enjoy the usufruct of their lands and natural resources. Appropriate measures should also be taken to increase their participation in the country's institutions and the exercise of the right to self-determination.

20. The Committee notes that the law does not recognize the status of conscientious objectors to military service.

The State party should ensure that persons required to perform military service can invoke conscientious objection as grounds for exemption.

21. The State party should give wide dissemination to the text of its fourth periodic report and to these concluding observations. It should also include in its fifth periodic report, which it is due to submit in July 2002 information in response to these observations.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

Poland

1. The Committee considered the fourth periodic report of Poland (CCPR/C/95/Add.8) at its 1764th and 1765th meetings (CCPR/C/SR.1764-1765) held on 19 July 1999 and adopted the following concluding observations at its 1779th meeting (CCPR/C/SR.1779) held on 28 July 1999.

A. Introduction

2. The Committee welcomes the fourth periodic report of Poland (CCPR/C/95/Add.8) and the State party's recently submitted core document (HRI/CORE/1/25/ Ref.1), as well as the explanations given in answer to the written and oral questions put by the members of the Committee. The Committee also appreciates the presence of the substantial delegation which represented various branches of the Government. The Committee furthermore commends the State party for having given wide publicity to the present report and to the work of the Committee.

B. Positive aspects

3. The Committee commends the State party for its ongoing process to bring its legislation in harmony with the provisions of the Covenant. It welcomes the adoption of a new Constitution specifically protecting the fundamental rights of the individual, including rights of persons belonging to ethnic minorities and ensuring the precedence of international agreements over domestic statute law in cases of conflict.

4. The Committee is appreciative of the enactment of a new Code of Criminal Procedure including a new right of appeal by way of cassation, a Penal Executive Code and a new Penal Code, the latter providing for personal accountability for acts of ill-treatment by public officials.

5. The abolition of the death penalty even during war time is welcomed.

6. The Committee notes with satisfaction the ratification by the State party of the Optional Protocol to the Covenant.

7. The Committee welcomes the fact that the Commissioner for Citizens' Rights has a substantial staff and is vested with broad competence, such as (a) recommending remedies for breaches of human rights; (b) the power to file a cassation appeal in the Supreme Court against judicial decisions; and (c) to request the Constitutional Tribunal to verify the conformity of laws with the Constitution and ratified international conventions.

8. The Committee welcomes the presumption in favour of granting bail and requiring a court to refuse it only in limited circumstances.

C. Principal subjects of concern and recommendations

9. The Committee expresses its concern about the absence of any legal mechanism allowing the State party, on a systematic basis, to deal with views of the Committee under the Optional Protocol and to implement them.

10. The Committee reiterates its concern about the numerous forms of discrimination against women, both in the Polish society and in the national legal system. The Committee notes with regret that the State party devoted very limited attention to the issue of gender equality (art. 3) in its fourth periodic report (para. 34), but welcomes the additional information made available by the delegation.

11. The Committee notes with concern: (a) strict laws on abortion which lead to high numbers of clandestine abortions with attendant risks to life and health of women; (b) limited accessibility for women to contraceptives due to high prices and restricted access to suitable prescriptions; (c) the elimination of sexual education from the school curriculum; and (d) the insufficiency of public family planning programmes. (Arts. 3, 6, 9 and 26)

> The State party should introduce policies and programmes promoting full and non-discriminatory access to all methods of family planning and reintroduce sexual education at public schools.

12. The Committee is also concerned about the lack of gender equality (art. 3) in the employment sector. For example, the State party's figures and other information now received show (a) the continuing low numbers of women holding high technical, managerial or political posts and relatively large numbers occupying less well-rewarded positions; (b) average salaries earned by women which amount to only 70 per cent of those earned by men; (c) the lack of equal remuneration for women for work of equal value; and (d) the continued tendency for pregnancy testing by employers.

Further measures should be taken by the State party to counteract these forms of discrimination against women and to promote their equality in political and economic life.

13. The Committee is concerned about the effects of the Polish pension system which results in lower pensions for women by preserving different retirement ages for men (65) and women (60); it notes that the theory of allowing women to retire later than the age of 60, is not reflected in practice; since the amount of the pensions is directly linked to the number of years at work, this leads to lower pensions for women.

Discrimination between retirement ages for men and women should be eliminated (arts. 3 and 26).

14. The Committee acknowledges the State party's efforts to implement a programme against domestic violence but is concerned (a) at the large number of reported cases of such violence; (b) the lack of any protective remedy in the civil courts; and (c) the shortage of provision of hostels and refuges for family members suffering from domestic violence.

Legislation and administrative measures should be put in place to correct such deficiencies. (security of the person, art. 9)

15. The Committee is concerned about the practice of "fala" which persists in the army, whereby new recruits are subjected to abuse and humiliation. (Art. 7)

The State party should adopt firm measures to eradicate this practice.

16. While noting the measures taken by the State party to implement article 10 by improving conditions in the penal system, the Committee remains concerned at the complete inadequacy of cell space per inmate.

The State party should effectively improve facilities for prisoners so as to comply with the Standard Minimum Rules for the Treatment of Prisoners. (Art. 10, para. 1)

17. The Committee is also concerned at the lack of an independent system of supervision for (a) abuses of human rights by police officers; (b) the conditions in penal institutions, including those for juvenile offenders; and (c) complaints of violence or other abuse by members of the Prison Service.

Mechanisms should be established for independent monitoring of these matters in order to protect the rights enshrined in articles 7, 9 and 10 of the Covenant.

18. The Committee expresses the view that the maximum length of pre-trial detention (12 months) and especially the ability to extend this up to another 12 months is incompatible with article 9, paragraph 3.

These periods should be reduced, and in any event persons who have to be detained should be brought to trial within a reasonable time or be released.

19. The Committee notes that figures have been given of the overall numb of advocates and counsellors qualified to act in the courts; it regrets th absence of information about (a) the number of lawyers available to provid free legal aid; and (b) any systems to check the quality of their performa (art. 14 (3)(d)).

20. The Committee is concerned at the excessive delays in criminal and c trials (art. 14 (1) and (3)(c)).

The State party should (1) proceed urgently with the steps in progres to improve the infrastructure so as to reduce delays in all courts; and (2) present in its next report statistics which realistically sho the results of these reforms.

21. The Committee is concerned at information about the extent to which military courts have jurisdiction to try civilians (art. 14); despite recent limitations on this procedure, the Committee does not accept that this practice is justified by the convenience of the military court dealing with every person who may have taken some part in an offence primarily committed a member of the armed forces.

These provisions of the Code of Criminal Procedure should be amended o repealed.

22. As regards telephone tapping, the Committee is concerned (a) that the Prosecutor (without judicial consent) may permit telephone tapping; and (b) that there is no independent monitoring of the use of the entire system tapping telephones.

The State party should review these matters so as to ensure compatibility with article 17, introduce a system of independent monitoring and include in its next report a full description of the system by then in operation.

23. The Committee regrets that the reference to sexual orientation which ha originally been contained in the non-discrimination clause of the draft Constitution has been deleted from the text, which could lead to violations o articles 17 and 26.

24. The Committee is concerned that current mechanisms for monitoring new religious movements may pose a threat to freedom of religion (art. 18).

The State party should include in its next report information on the activities of these mechanisms and their effect on the actual enjoyment of religious freedom on equal terms by members of all denominations in Poland. (Arts. 18 and 26)

25. The Committee welcomes the abolition by law of corporal punishment in schools; it is concerned, however, that this change in the law is not fully being implemented. (Arts. 7 and 24)

D. Dissemination of Information about the Covenant (art. 2)

26. The Committee sets the date for the submission of Poland's fifth periodic report as July 2003. It urges the State party to make available to the public the text of these concluding observations in appropriate languages. It requests that the next periodic report be widely disseminated among the public, including non-governmental organizations operating in Poland.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

Romania

1. The Committee considered the fourth periodic report of Romania (CCPR/C/95/Add.7) at its 1766th, 1767th and 1768th meetings (CCPR/C/SR.1766-1768), on 20 and 21 July 1999, and adopted the following concluding observations at its 1777th meeting (CCPR/C/SR.1777) held on 27 July 1999.

A. Introduction

2. The Committee welcomes the State party's efforts to respond in a comprehensive manner to the issues raised by the Committee on the basis of its fourth periodic report (CCPR/C/95/Add.7). It also appreciates the presence of a substantial delegation from Bucharest, and the detailed information provided in response to questions by members of the Committee.

B. Positive aspects

3. The Committee commends the State party for progress made in bringing the Romanian legal order into harmony with its obligations under the Covenant, and for the establishment of institutions which contribute to the promotion and protection of human rights, e.g. the People's Advocate (Ombudsman) and the Department for the Protection of National Minorities. It especially welcomes the establishment, within that Department, of a National Office for Roma, to initiate, support and coordinate actions to improve respect for the rights of the Roma.

4. The Committee notes with satisfaction changes that have been made to improve the administration of justice and to strengthen the independence of the judiciary, in particular the irremovability of judges. The Committee also notes that during recent years the Romanian courts have made frequent reference to international legal provisions, in particular those of the Covenant.

C. Principal subjects of concern and recommendations

5. A matter of grave concern to the Committee is the situation of street children and abandoned children, an exceedingly serious problem which remains unresolved in Romania (art. 24).

The State party should take all necessary measures to comply with article 24 of the Covenant, by protecting and rehabilitating these children, by guaranteeing them a name, and by ensuring that all births are duly registered in Romania.

6. The Committee expresses its concern about continuing discrimination against the Roma (arts. 26 and 27).

The State party should pursue further measures, both legislatively and in practice, to ensure the rights of the Roma, in the public and private sector, particularly with respect to access to education and support for the Roma language.

7. While the Committee appreciates steps taken by the State party to promote gender equality, it remains concerned about discrimination against women, particularly the lack of women in decision-making positions and in politics (arts. 3 and 26).

The State party should take prompt action in order to combat discrimination against women, and, in particular, to ensure greater representation of women in politics and government, and more senior positions in the public and private sectors.

8. The Committee also expresses its serious concern about domestic violence against women, a problem which cannot be resolved exclusively by penal sanctions (arts. 3, 7 and 9).

The State party should take appropriate action, in legislation and in practice, to provide women with access to protective measures before the courts, in order to prevent renewed violence by potential aggressors.

9. The Committee is concerned at the lack of a clear legal framework, defining and limiting the role of the security forces and providing for effective civilian control over them.

The State party should promptly provide for such limitations and control by legislation and appropriate regulations.

10. The Committee is deeply concerned about threats to the independence of the judiciary through interference by the executive, and the powers exercised by the Ministry of Justice in regard to judicial matters, including the appeal process, and its powers of inspection of the courts (art. 14).

The Committee urges the State party to establish a clear demarcation between the competence of the executive and judicial bodies.

11. The Committee is concerned at the extent of pre-trial detention; the broad prerogatives of the Public Ministry to allow the withdrawal of procedural safeguards in situations of deprivation of liberty; and the possibility of extending the 30-day period of detention without suitable limits or judicial control (art. 9).

12. The Committee is disturbed at continued incidents involving the use of firearms by the police, especially in cases of petty offences committed by minors (arts. 6, 7 and 9).

The use of firearms by the police should be closely regulated in order to prevent violations of the right to life and personal security.

13. The Committee is also concerned at the lack of legislation invalidating statements of accused persons obtained in violation of article 7 of the Covenant.

The State party should adopt appropriate legislation that places the burden on the State to prove that statements made by accused persons in a criminal case have been given of their own free will, and that statements obtained in violation of article 7 of the Covenant are excluded from the evidence.

14. The Committee is concerned about the conditions in prisons, including continued overcrowding (art. 10).

The State party should take measures to improve conditions in prisons, particularly overcrowding, within the shortest practicable time-frame.

15. The Committee is concerned that freedom of expression and of the press are unduly limited by article 31 (4) of the Romanian Constitution and by the application of the law on defamation (art. 19).

Article 238 of the Penal Code should be abrogated, and articles 205 and 206 appropriately modified. Article 31 (4) of the Constitution should be interpreted in the light of article 19 of the Covenant.

16. The Committee is concerned about restrictions on the right to privacy, in particular in regard to homosexual relations between consenting adults, which are penalized by article 200, paragraph 1, of the Penal Code (art. 17).

The State party should take timely action to ensure that this provision is amended so as to conform with the Covenant.

17. The Committee is concerned that the State party has not provided for the right to conscientious objection without discrimination (arts. 18 and 26).

The State party should amend its legislation to provide for conscientious objection, in a manner that is consistent with articles 18 and 26 of the Covenant.

D. Dissemination of information about the Covenant (art. 2)

18. The Committee sets the date for the submission of Romania's fifth periodic report as ... It urges the State party to make available to the public the text of the State party's fourth periodic report and these concluding observations. It requests that the next periodic report be widely disseminated among the public, including non-governmental organizations operating in Romania.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

Norway

1. The Committee considered the fourth periodic report of Norway (CCPR/C/115/Add.2) at its 1785th and 1786th meetings (CCPR/C/SR. 1785 - 1786) held on 19 October 1999 and adopted the following concluding observations at its 1796th meeting (CCPR/C/SR. 1796) held on 26 October 1999.

A. Introduction

2. The Committee welcomes the timely submission of the State party's fourth periodic report, and its detailed information on laws, other measures, and practices relating to the implementation of the Covenant. The Committee also appreciates the further information about developments in the implementation of human rights in Norway subsequent to the submission of the report. The Committee expresses its appreciation for the constructive and open dialogue it had with the Norwegian delegation.

B. Positive aspects

3. The Committee commends the State party for its generally positive record in the implementation of the provisions of the Covenant. It notes with appreciation the extensive legislative activity and other measures that have been taken for the promotion and protection of rights recognized under the Covenant since the examination of the third periodic report.

4. The Committee welcomes the adoption of the Human Rights Act under which the Covenant has been directly incorporated into the legal system of Norway and the fact that it prevails over conflicting statutory provisions. (Art. 2)

5. The Committee also welcomes both the appointment of a new Minister for Development and Human Rights and the new practice of the Government in presenting comprehensive annual reports to the Parliament (the Storting) on the implementation and monitoring of human rights. The Committee looks forward to receiving information in future reports on the Plan of Action which is to be forwarded to the Storting on 10 December 1999, and the measures which will be recommended to further enhance the protection of human rights in Norway. (Art. 2)

6. While noting that the unemployment rate for immigrants is still substantially higher than for the rest of the population, the Committee commends the new legislation and the Plan of Action, both seeking to promote equality in the labour market. (Art. 26)

7. The Committee appreciates the steps taken to increase the number of women in the judiciary, in politics, and in leading positions both in public institutions and in the private sector, and other measures taken to combat traditional gender concentration in certain professions. (Art. 3 and 26)

8. Noting that the Lund Commission uncovered many instances of unlawful telephone-monitoring, the Committee welcomes Law No. 73 of 1999 which after its entry into force on 1 January 2000 will afford the right to

compensation to victims, and a general right to seek information about oneself contained in the records and registers of the Police Security Service. (Art. 17)

9. The Committee commends the State party for the new system which was implemented in 1998 with regard to the issue of questioning of child victims of sexual abuse in judicial proceedings. (Art. 14 and 24)

10. The Committee takes note of the positive developments in the field of protecting and promoting the human rights of members of the Sami indigenous people, including the strengthening of the Sami Parliament, measures aimed at promoting the Sami language, transfer of certain cultural institutions to the Sami themselves, as well as the ongoing legal reform related to lands and resources in Finnmark and other areas with a Sami population. The Committee welcomes the developments to ensure full consultation with the Sami in matters affecting their traditional means of livelihood. (Art. 1 and 27)

C. Principal subjects of concern and recommendations

11. The Committee notes with concern that pre-trial detention in some cases is used for excessive periods of time. The Committee is also concerned at the extent to which the liberty of persons may be withdrawn by administrative detention. The Committee recommends that the enabling legislation and practice be reviewed with regard to both pre-trial and administrative detention, with a view to guaranteeing full compliance with all provisions of article 9 of the Covenant.

12. The Committee welcomes the partial withdrawal of the reservation to article 14, paragraph 5, but recommends that the State party consider a complete withdrawal.

13. The Committee reiterates its concerns over section 2 of the Constitution which provides that individuals professing the Evangelical-Lutheran religion are bound to bring up their children in the same faith. Its inclusion in the Constitution is incompatible with the Covenant. The

Committee therefore recommends that section 2 is modified to comply with article 18 of the Covenant.

14. The Committee recommends early action to review and reform laws relating to criminal defamation. (Art. 19)

15. With reference to the information in the report about alleged lack of proper reaction from law enforcement officials in cases of racial discrimination, the Committee recommends that the situation be thoroughly analysed and requests that further information be made available. (Art. 26)

16. The Committee remains concerned that while legislative reform work in the field of Sami land and resource rights is in progress, traditional Sami means of livelihood, falling under article 27 of the Covenant, do not appear to enjoy full protection in relation to various forms of competing public and private uses of land. Lawsuits by private landowners leading to judicial prohibition of reindeer herding and high legal costs for the Sami are a particular concern in the absence of satisfactory legal aid.

17. As the Government and Parliament of Norway have addressed the situation of the Sami in the framework of the right to self-determination, the Committee expects Norway to report on the Sami people's right to self-determination under article 1 of the Covenant, including paragraph 2 of that article.

D. Dissemination of Information about the Covenant (article 2)

18. The Committee requests that Norway's fifth periodic report be submitted by October 2004. That report should be prepared in accordance with the revised Guidelines adopted by the Committee (CCPR/C/66/GUI) and should give particular attention to the issues raised in these concluding observations. The Committee requests that these concluding observations and the next periodic report be widely disseminated in Norway.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

Morocco

1. The Committee considered the fourth periodic report of Morocco (CCPR/C/115/Add.1) at its 1788th, 1789th and 1790th meetings (CCPR/C/SR. 1788 - 1790) held on 20 and 21 October 1999 and adopted the following concluding observations at its 1802nd meeting (CCPR/C/SR. 1802) held on 29 October 1999.

A. Introduction

2. The Committee welcomes the fourth periodic report of Morocco (CCPR/C/115/Add.1), which was submitted in time. While the Committee appreciates the information provided on the new Constitution and other legislation adopted since the examination of Morocco's third periodic report, it notes that little information was provided on the actual application of these laws through the granting of remedies, or on the reality of the human rights situation.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the 1996 Constitution, providing, *inter alia*, for the protection of certain Covenant rights and the steps taken towards democratization since the examination of Morocco's third report in 1994. It welcomes the recognition by the State party of the need for

reforms to implement fully Covenant rights and the recent statements at the highest level to this effect. It encourages Morocco to accelerate the ongoing process of reviewing its legislation and enacting laws to give effect to the provisions of the Covenant.

4. The Committee welcomes the commutation of death sentences which has applied since 1994, and the new autopsy procedures in cases of death in custody. It also welcomes the release of many prisoners, the granting of passports to some government opponents and the return from exile of others, and the provision of medical examination for detainees.

5. The Committee notes with satisfaction the establishment of a Ministry of Human Rights, a Consultative Council on Human Rights which has reported on many cases of disappearance, and a Commission of Arbitration to provide compensation to victims of arbitrary detention and to the families of disappeared persons. The establishment of a National Observatory for the Rights of the Child and a National Plan of Action for the Integration of Women are particularly welcome.

6. The Committee welcomes the fact that the State party has entered into an agreement with the Office of the United Nations High Commissioner for Human Rights to establish a centre for documentation and education in human rights to provide for human rights training in Morocco. It also welcomes the action taken by the State party in regard to human rights training for the legal profession and the media.

C. Principal subjects of concern and recommendations

7. The Committee observes that while it is stated that the Covenant is part of domestic law, the effect of this on many laws which appear to be incompatible with the Covenant is unclear. The Committee is also concerned that there is no agency fully independent of Government with general responsibility for monitoring the implementation of human rights (article 2).

8. The Committee encourages the State party to ratify the Optional Protocol.

9. The Committee remains concerned about the very slow pace of the preparations toward a referendum in Western Sahara on the question of self-determination, and at the lack of information on the implementation of human rights in that region.

The State Party should move expeditiously and co-operate fully in the completion of the necessary preparations for the referendum (articles 1 and 2).

10. The Committee reiterates its concern that many cases of disappeared persons in Morocco have not yet been resolved by or referred to the Consultative Council on Human Rights, and that according to the delegation it is not yet timely to investigate the responsibility for those disappearances.

It urges the State party to intensify investigations into the whereabouts of all persons reportedly missing, to release any such persons who may still be held in detention, and to provide lists of prisoners of war to independent observers, to inform families about the location of the graves of disappeared persons known to be dead, to prosecute the persons responsible for the disappearances or deaths, and to provide compensation to victims or their families where rights have been violated.

11. The Committee notes that Moroccan law does not specify or limit the derogations on rights which are permitted in time of public emergency and does not ensure compliance with article 4 of the Covenant.

The State party should ensure that its law and practice are in full compliance with its obligations under article 4.

12. The Committee regrets the lack of specific information in the report about the de facto situation of women in Morocco and observes that the high rate of female illiteracy reported by the delegation underlines the lack of equal opportunity for women in all aspects of society. It continues to be deeply concerned about the extent of discrimination against Moroccan women in education, in employment, in public life and in criminal and civil laws, including laws dealing with inheritance, marriage, divorce, family relations, for examples, polygamy, repudiation of marriage, grounds for divorce, age of marriage and restrictions

on marriage by muslim women to non-muslims. It notes with concern that the Constitutional guarantees of women's equality extend only to political rights.

The State party is urged to intensify its efforts to overcome illiteracy, lack of education and all forms of discrimination against women, to implement fully the guarantee of equality contained in the Covenant (and in particular articles 2(1), 3, 23, 25 and 26) and to ensure the equal enjoyment by women of all rights and freedoms.

13. The Committee notes with concern that the strict prohibition on abortion, even in cases of rape or incest, and the stigmatization of women who give birth to children outside marriage results in clandestine, unsafe abortions which contribute to a high rate of maternal mortality.

The State party should ensure that women have full and equal access to family planning services and to contraception and that criminal sanctions are not applied in such a way as to increase the risk to life and health of women.

14. The Committee notes with concern that there are no special programmes, legal sanctions or protective measures to counter violence and sexual abuse of women, including marital rape, and that there are aspects of the criminal law (such as the crime of honour defence) which fail to provide equal protection of women's rights under articles 7 and 9 of the Covenant.

Legal and protective measures should be adopted to guarantee women's rights to personal security.

15. The Committee reiterates its concern at the number of offences which remain subject to the death penalty.

The State party should bring its laws into line with its current policy by abolishing the death penalty altogether and, in any event, should limit the application of the death penalty to the most serious offences as required by article 6 of the Covenant. The Committee also urges the State party to fulfill its undertaking to release a list of all persons under sentence of death.

16. The Committee is concerned at the number of allegations of torture and ill-treatment of detainees by police officials, and that these have been dealt with, if at all, only by disciplinary action and not by the imposition of criminal sanctions on those responsible for such violations.

In fulfilment of its obligations under article 7 of the Covenant, the State party should adopt firm measures to eradicate the practice of torture and enact legislation to make torture a criminal offence and to exclude the admissibility in evidence of any confession or statement obtained by torture or duress; appropriate mechanisms should be established for independent monitoring of police detention centres and penitentiaries, all reports of torture and ill-treatment must be investigated, the persons responsible should be prosecuted, and victims of torture must be granted compensation.

17. The Committee notes with concern that the maximum length of detention of a suspect before being brought before a judge may in some cases be as long as 96 hours, that the Crown Prosecutor General has power to extend this period, and that persons detained may not have access to counsel during this period. The Committee is also concerned about the length of pre-trial detention.

The State party should ensure that its laws and procedures comply with the guarantees of article 9.

18. The Committee is concerned that the fair trial guarantees of article 14, such as the presumption of innocence and the right to appeal in criminal cases, are not fully reflected in the Constitution or in the Code of Criminal Procedure. It is also concerned that there is no review by higher courts of decisions handed down by special courts like the Permanent Court of the Royal Armed Forces and the Special Court of Justice.

The State party should adopt appropriate legislation so as to guarantee the presumption of innocence, as required under article 14(2) of the Covenant, and ensure a right of appeal in all criminal cases in keeping with article 14(5) of the Covenant.

19. The Committee regrets the continued existence of legislation allowing the court to order imprisonment for debt arising from a contractual obligation, despite a

decision by the Administrative Tribunal of Rabat, holding that imprisonment
not be imposed in a particular case of this kind because it violates Morocc
obligations under the Covenant.

Sections 673 et seq. of the Code of Criminal Procedure should be amended
as to comply with article 11 of the Covenant.

20. The Committee regrets the lack of specific information in the report concern
the law and practice in relation to freedom of movement within the territory
the right to enter and to leave the territory of the State party. In particul
it is not clear under which laws exile may be imposed or withdrawn or how
right to obtain a passport and, where applicable, an exit visa can be enfor
by individuals.

The State party should ensure that its laws are in full conformity w
article 12 of the Covenant, that the laws are transparent and that effect
remedies are available to enforce the rights protected by article 12.

21. The Committee is concerned that the impartiality of the judiciary is not fu
ensured in accordance with article 14(1).

The State party should take steps to guarantee the independence
impartiality of the judiciary, and in particular to ensure that there
effective and indepedent disciplinary mechanisms.

22. The Committee continues to be concerned that freedom of religion and belief
not fully guaranteed. In this regard it observes that the Covenant requi
religious freedom to be respected in regard to persons of all religi
convictions, and not restricted to monotheistic religions that the right
change religion should not be restricted directly or indirectly.

The State party should take measures to ensure respect for freedom
religion and belief, and ensure that its laws and policies fully comply w
article 18 of the Covenant.

23. The Committee continues to be concerned that the Moroccan Press Code inclu
provisions (e.g. articles 42, 64, 77) which severely restrict freedom

expression by authorising seizure of publications and by imposing penalties for broadly defined offences (such as publishing inaccurate information or undermining the political or religious establishment). It is deeply concerned that 44 persons have been imprisoned for offences under these laws. In addition, the Committee is particularly concerned that persons expressing political views opposing the government or calling for a republican form of government have been sentenced to imprisonment under article 179 of the Penal Code for the offence of insulting members of the royal family. These laws and their application appear to exceed the limits permitted by article 19(3).

The State party should amend or repeal the dahir of 1973 and bring all its criminal and civil laws into full compliance with article 19 of the Covenant and release persons whose conviction and imprisonment are incompatible with those provisions.

24. The Committee is concerned at the breadth of the requirement of notification for assemblies and that the requirement of a receipt of notification of an assembly is often abused, resulting in de facto limits of the right of assembly, ensured in article 21 of the Covenant.

The requirement of notification should be restricted to outdoor assemblies and procedures adopted to ensure the issue of a receipt in all cases.

D. Dissemination of Information about the Covenant (article 2)

25. The Committee sets the date for the submission of Morocco's fifth periodic report as 31 October 2003. That report should be prepared in accordance with the Committee's (new) Guidelines and should give particular attention to the situation of women, the problem of the disappeared and to the other issues raised by the Committee in these Concluding Observations. The Committee urges the State party to make available to the public as well as to the legislative and administrative authorities the text of these concluding observations in multiple languages. It requests that the next periodic report be widely disseminated among the public, including civil society and non-governmental organisations operating in Morocco.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Republic of Korea

1. The Committee considered the second periodic report of the Republic of Korea (CCPR/C/114/Add.1) at its 1791st and 1792nd meetings (see CCPR/C/SR.1791 and SR. 1792), held on 22 October 1999, and adopted the following concluding observations at its 1802nd meeting (CCPR/C/SR.1802), held on 29 October 1999.

A. Introduction

2. The Committee welcomes the second periodic report submitted by the Republic of Korea within the specified time limit. The Committee regrets, however, that despite its comment that the initial report of the State party did not include sufficient information about implementation of the Covenant in practice, the second periodic report suffered from the same deficiency. The Committee further regrets the lack of responses to a number of questions posed by its members during the examination of the report. As a result, the Committee was prevented from fully monitoring compliance by the State party with all provisions of the Covenant.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee appreciates the security concerns of the State party that result from the fact that no final agreement has been reached between the two Koreas. The Committee stresses, however, that citing security concerns does not of itself justify restrictions on Covenant rights, and that even when a state party is faced with

genuine security problems restrictions on rights must meet the requirements of the Covenant.

C. Positive factors

4. The Committee commends dissemination of the report among non-governmental organizations that contributed significantly to the Committee's examination of the report. The Committee takes note of an increasing openness of society, as is evident from abolition of the Performance Monitoring Committee, which had been responsible for censorship of the performing arts.

5. The Committee notes the enactment of a number of laws aimed at strengthening protection of Covenant rights, especially the rights to equality protected under article 2, paragraph 1, and articles 3 and 26 of the Covenant. These laws include the Basic Women's Development Act, amendments introduced in the Employment Equality Act, the Handicapped Employment Act, the Gender Discrimination Prevention and Relief Act and the Prevention of Domestic Violence and Victim Protection Act.

6. The Committee notes measures undertaken to enhance awareness of the Covenant and of human rights in general that include obligatory human rights training for judges, lawyers and prosecutors. It also welcomes the translation into the Korean language and distribution of the major international human rights instruments.

D. Principal Areas of Concern and Recommendations

7. The status under domestic law of the rights provided for in the Covenant remains unclear, particularly since the Korean Constitution does not enumerate all of these rights and the extent and criteria under which they may be limited. The Committee is concerned that article 6 of the Constitution, according to which international treaties ratified by the State party have the same effect as domestic laws, has been interpreted as implying that legislation enacted after accession to the Covenant has status superior to that of Covenant rights.

8. The Committee reiterates its grave concern expressed after consideration of the initial report regarding the continued existence and application of the National Security Law. According to the State party, the National Security Law is used to deal with legal problems that arise from the division of Korea. However, the

Committee is concerned that it is also used to establish special rules of detention, interrogation and substantive liability that are incompatible with various articles of the Covenant, including articles 9, 18 and 19.

The Committee reiterates the recommendation made after consideration of the State party's initial report that the State party phase out the National Security Law.

9. The Committee considers that the scope of activities that may be regarded as encouraging "anti-state organizations" under article 7 of the National Security Law is unreasonably wide. From the cases that have come before the Committee in individual communications under the Optional Protocol, and other information provided on prosecutions brought under article 7, it is clear that the restrictions placed on freedom of expression do not meet the requirements of article 19, paragraph 3 of the Covenant, as they cannot be regarded as necessary to protect national security. The Covenant does not permit restrictions on the expression of ideas, merely because they coincide with those held by an enemy entity or may be considered to create sympathy for that entity. The Committee also emphasizes that internal directives regarding prosecution policy do not provide adequate guarantees against the use of article 7 in a manner that is incompatible with the Covenant.

The State party must urgently amend article 7 so as to make it compatible with the Covenant.

10. The Committee is deeply concerned about the laws and practices that encourage and reinforce discriminatory attitudes towards women. In particular, the family headship system both reflects and reinforces a patriarchal society in which women have a subordinate role. The practice of identifying the sex of foetuses, the disproportionate percentage of boys among second and third-born children and the high rate of maternal mortality that apparently arises from the number of unsafe abortions are deeply disturbing. The Committee stresses that prevailing social attitudes cannot justify failure by the State party to comply with its obligations, under articles 3 and 26 of the Covenant, to ensure equal protection of the law and the equal right of men and women to the enjoyment of all the rights set forth in the Covenant.

11. While welcoming the new legislation enacted by the State party for the prevention and punishment of domestic violence, the Committee remains concerned at the high level of such violence and the remaining inadequacies in law and practice.

Specifically, the Committee is concerned that the offence of rape requires evidence of resistance by the woman, that marriage to the victim of rape provides a defence to the accused, and that it appears that marital rape is not a criminal offence.

The new legislation on prevention and punishment of domestic violence should be strengthened by eliminating existing legal rules that weaken the protection of women against such violence.

12. The Committee is concerned over the extent of discrimination against women in employment, over the lack of adequate protection for the high number of women employed in small enterprises and over the disparity between the earnings of men and women.

In order to ensure compliance with articles 3 and 26 of the Covenant, the State party must promote effective implementation of the Gender Discrimination Prevention and Relief Act enacted in January 1999, and adopt positive measures to guarantee equality of opportunity and conditions of employment for women.

13. The law of criminal procedure, under which the detention of a suspect is subject to judicial review only if the detainee lodges an appeal, is incompatible with article 9, paragraph 3, of the Covenant, which provides that every person detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power. The excessive length of permissible pre-trial detention (30 days in ordinary cases and 50 days in cases involving the National Security Law), and the lack of defined grounds for such detention also raise questions of compliance by the State party with article 9.

The State party must amend its law so as to ensure respect for all the rights of detained persons provided for under article 9 of the Covenant.

14. The Committee takes note of the procedures for monthly monitoring of conditions in detention centres by prosecutors, but it is concerned that these and other mechanisms are not adequate to prevent instances of torture and cruel, inhuman and degrading treatment of detainees. The small percentage of cases in which complaints of torture or cruel, inhuman and degrading treatment lead to action against officials calls into question the credibility of the existing procedures of investigation. The Committee is also concerned that non-compliance by the State party with the requirements of article 9 of the Covenant, and the seemingly widespread reliance of the prosecuting authorities and the courts on confessions by

accused persons and accomplices, facilitate acts of torture and cruel, degrading and inhuman treatment by interrogating officials.

Establishment of an independent body to investigate allegations of torture and amendments of the criminal procedure mentioned in para. 15 above should not be delayed.

15. While the Committee welcomes the abolition of the "ideology conversion oath", it regrets that it has been replaced by a "law-abidance oath". From the information provided to the Committee it remains unclear which prisoners are required to sign the oath and what the consequences and legal effects of the oath are. The Committee is concerned that the oath requirement is applied, on a discriminatory basis, particularly to persons convicted under the National Security Law, and that in effect it requires persons to make an oath to abide by a law that is incompatible with the Covenant.

The "law-abidance oath" imposed on some prisoners, as a condition for their release, should be abolished.

16. The Committee regrets that, in view of the paucity of information provided in the report and in the responses of the delegation during consideration of the report it is unable adequately to assess the extent of judicial independence. It is particularly concerned about the system of reappointment of judges that raises serious questions about judicial independence.

The State party must provide full details on the system and actual practice of judicial appointments.

17. The extensive use of wiretapping raises serious questions of compliance by the State party with article 17 of the Covenant. The Committee is also concerned that there are no adequate remedies by way of correction of inaccurate information in data-bases or for their misuse or abuse.

18. The prohibition of all assemblies on major roads in the capital would appear to be overbroad. While some restrictions on assemblies on main roads in the interests of public order are permissible, article 21 of the Covenant requires that all such restrictions be in conformity with the law and be necessary in a democratic society. The absolute restrictions on the right to hold assemblies on main roads imposed by the State party do not meet these standards.

19. The Committee notes the changes in law that allow teachers to form trade unions, and public servants to form work-place associations. Nevertheless, the Committee is concerned that the remaining restrictions on the right to freedom of association of teachers and other public servants do not meet the requirements of article 22, paragraph 2, of the Covenant.

The State party should continue with its programme of legislation regarding the right of association of public servants with the object of ensuring that all persons in Korea shall enjoy their rights under article 22 of the Covenant.

20. The Committee welcomes the withdrawal by the State party of its reservations on articles 23 (para. 4) and 14 (para. 7). It strongly recommends that the State party review the remaining reservations on articles 14 (para. 5) and 22 with a view to their eventual withdrawal.

21. In relation to the Committee's Views on Communications submitted under the Optional Protocol, the Committee finds it inappropriate that the State party should require the author of a communication on which the Committee has expressed its views to seek a remedy through the domestic courts, by way of further appeal or a claim for compensation.

Rather than referring such cases back to the domestic courts which have already pronounced on the matter, the State party should immediately proceed to give effect to the Views expressed by the Committee.

22. The Committee calls on the State party to continue its efforts to provide human rights education to its public officials. It recommends that the State party consider making such education obligatory, not only for public officials but for members of all human rights-related professions, including social workers and medical personnel.

23. The Committee requests that the State party submit its third periodic report by 31 October, 2003. That report should be prepared in accordance with the revised Guidelines adopted by the Committee (CCPR/C/66/GUI) and should give particular attention to the issues raised in these concluding observations. The Committee requests that these concluding observations and the next periodic report be widely disseminated in the Republic of Korea.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Portugal (Macao)

1. The Committee considered the fourth periodic report of Portugal relating to Macao (CCPR/C/POR/99/4) at its 1794th and 1795th meetings, held on 25 and 26 October 1999, and adopted the following concluding observations at its 1806th meeting, held on 2 November 1999.

A. Introduction

2. The Committee welcomes the attendance of a large delegation, including a number of officials from the Macao Government. It wishes to express its thanks to the representatives of the State party for their detailed responses to the questions posed orally and in writing and the comments made by the Committee during its consideration of the report, and for their offer to supply further information in writing. The Committee regrets that, although it has received information on the legislation applicable before and after 19 December 1999, it has not been given enough detail on the subject or up-to-date statistics.

3. The Sino-Portuguese Joint Declaration, read in conjunction with the Memorandum of Understanding and the Basic Law, provides a legal basis for the continued

protection in Macao after 19 December 1999 of the rights specified in the Covenant. The Committee, moreover, wishes to reiterate its long-standing position that human rights treaties devolve with territory, and that States continue to be bound by the obligations under the Covenant entered into by the predecessor State. Once the people living in a territory find themselves under the protection of the International Covenant on Civil and Political Rights, they cannot be stripped of that protection on account of a change in sovereignty. (See documents CCPR/C/SR.1178/Add.1, SR.1200-1202 and SR.1453.) Consequently, the reporting requirements under article 40 of the International Covenant on Civil and Political Rights will continue to apply and the Human Rights Committee expects to receive and review reports in relation to Macao after 19 December 1999.

B. Positive aspects

4. The Committee notes with satisfaction the negotiations between the Portuguese and Chinese authorities to ensure legal continuity (article 8 of the Basic Law) and continued application of international treaties. It welcomes the fact that a large number of the rights and fundamental freedoms set forth in the International Covenant on Civil and Political Rights are enunciated in articles 24 to 44 of the Basic Law of Macao.

5. The Committee notes with satisfaction the great efforts which have been made in the past few years to give the Chinese-speaking population access to official forms and to court documents and decisions in Chinese, and that Chinese is used in the courts and for official business. It notes that, under article 9 of the Basic Law, both Chinese and Portuguese can be used as official languages after 19 December 1999.

6. The Committee also notes with satisfaction that Portugal and China reached agreement in March 1998 on the principles underlying the new organization of the legal system, which guarantee the non-removability of judges and the autonomy and independence of the judiciary.

C. Principal subjects of concern and Committee recommendations

7. The Committee notes with great concern that on the eve of the territory of Macao being returned to the sovereignty of the Peoples Republic of China, it still remains unclear which laws, including human rights laws, will be held incompatible with the Basic Law of the Macao Special administrative Region and therefore become invalid after 19 December 1999.

The Committee wishes to underline the obligation of the State Party, according to article 2 of the Covenant, as well as that of the State under whose jurisdiction the territory will be, to ensure that the population of Macao remain fully protected under the Covenant after 19 December 1999.

8. The Committee notes the Ombudsman functions of the High Commissioner against Corruption and Administrative Illegality, and the petition procedure; however, it regrets the absence of an independent, statutory Human Rights Commission with a mandate to monitor the implementation of human rights legislation.

Such a Commission should be established.

9. The Committee is concerned at the paucity of judges, lawyers and interpreters, which might adversely affect the administration of justice.

Further efforts should be made to train lawyers and interpreters and give them a specialization in human rights.

10. The Committee is concerned that, despite guarantees of equality in the Constitution also reflected in article 25 of the Basic Law, and in labour legislation, *de facto* inequalities continue with regard to the status of women and their remuneration.

Effective measures should be taken to eliminate such inequalities.

11. The Committee notes reports that organized crime and, in particular, trafficking in women and prostitution, persist in Macao. It acknowledges that the

Penal Code prohibits organized crime, but is concerned at the authorities' failure to take action to protect the victims.

Preventive action should be taken to stamp out trafficking in women and rehabilitation programmes for the victims should be provided. The victims should be protected and supported by laws and policies of the State party.

12. The Committee is concerned at certain aspects of Law 6/97/M (promoting, founding or supporting a secret association), namely the creation of a vague and insufficiently defined (or "abstract") offence, and the imposition of an increased sentence, or conviction, on the basis that the person is a "habitual offender" or is likely to repeat such an offence.

Penal legislation should be brought into line with articles 14 and 15 of the Covenant, in particular the prohibition on trying a person or placing him/her in jeopardy, twice for the same offence (*non bis in idem*, article 14, para. 7) and the ban on laws with retroactive effect (*nullum crimen sine lege, nulla pœna sine lege*, article 15).

13. The Committee is concerned that the Governments of China and Portugal have not yet reached firm agreement on the nationality of residents of Macao after 19 December 1999, and that the criteria which will determine which Macao residents may be regarded as being of Portuguese origin are not yet known.

Effective measures should be taken to safeguard the rights of those who at present hold dual citizenship.

14. The Committee is also concerned that no firm agreement has been reached on the transfer of residents of the Macao Special Administrative Region to face trial in other jurisdictions in China, or their extradition to other countries in cases where they may face heavier penalties than those laid down in the Macao Penal Code, including the death penalty.

The Committee reiterates that Macao residents enjoy the protection of the Covenant and should not lose that protection by being transferred to other jurisdictions.

15. The Committee is concerned at the lack of firm agreements guaranteeing freedom of the press and expression after 19 December 1999.

Effective measures should be taken to guarantee those freedoms for the future.

16. The Committee is concerned at the paucity of non-governmental human-rights organizations and the fact that their establishment is not being encouraged.

D. Dissemination

17. The Committee regrets that the public in general is not adequately informed of the Human Rights Committee's consideration of the report. The Committee recommends that the State party distribute the text of its report and these Concluding Observations widely. The State party's next report should be prepared on an article by article basis, in accordance with the Committee's new Guidelines (CCPR/C/66/GUI) and should give particular attention to the issues raised by the Committee in these Concluding Observations. It sets the date for the next report on the implementation of the Covenant in Macao as 31 October 2001.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Cameroon

1. The Committee considered the third periodic report of Cameroon (CCPR/C/102/Add.2) at its 1798 to 1800th meetings (CCPR/C/SR.1798-SR.1800), held on 27 and 28 October 1999, and adopted, at its 1807th and 1808th meetings held on 3 November 1999, the following observations:

A. Introduction

2. The Committee notes that the third periodic report of Cameroon was incomplete and did not address all of the concerns expressed by the Committee in its previous concluding observations (CCPR/C/79/Add.33) on Cameroon's second periodic report. It welcomes, however, the updated information, including written information and legislative texts, provided by the Delegation. It further welcomes the willingness of the State party to make additional submissions in writing with respect to particular concerns articulated by members of the Committee.

B. Positive aspects

3. The Committee notes that under the revised Constitution of 1996 the Covenant has priority over national law, and welcomes the statement of the Delegation that Covenant rights can be invoked directly in Cameroonian courts, and that these apply the Covenant provisions.

4. The Committee welcomes the efforts undertaken by the State party to inform the multiethnic population of Cameroon about their human rights, in particular through the establishment of legal clinics, educational campaigns, workshops and seminars held throughout the territory.

5. The Committee also welcomes the commitment to promote gender equality through a Ministry of Women Affairs as well as various measures initiated by the Ministry for that purpose.

6. The Committee welcomes recent amendments to the criminal code, including the enactment of a crime of torture under Article 132bis.

7. The Committee welcomes the establishment of the National Committee on Human Rights and Freedoms which is empowered to oversee all relevant Cameroonian authorities.

8. The Committee notes with satisfaction that there has been a noticeable increase in the number of judges and other court personnel.

C. Principal subjects of concern and recommendations

9. The Committee is concerned about the duality of statutory law and customary law, which sometimes results in unequal treatment between men and women, particularly in the area of marriage and inheritance laws. The Committee is also concerned that where spouses do not agree, customary law incompatible with the Covenant is often applied.

The Sate party should adopt legislation that ensures that the laws applied will in all cases be compatible with the Covenant. It emphasizes that law that gives effect to Covenant rights may fulfil an educational function. Educational campaigns should also be included in those areas in which customary practices lead to discrimination against women.

10. The Committee is also concerned at the continuing existence of polygamy, and the different ages for marriage between girls and boys.

The state party should ensure that the above are brought into conformity with the Covenant.

11. The Committee is further concerned with the high rate of illiteracy among women, unequal educational and employment opportunities for women and ability of husbands to seek a court order to prevent wives from engaging in certain occupations.

The State party should ensure the equality of women with men, both in education and employment, particularly in employment of the woman's choice. It should also ensure that women receive equal pay for work of equal value.

12. The Committee is concerned at the fact that there is no specific law to prohibit female genital mutilation and that this practice continues in certain areas of Cameroonian territory in violation of article 7 of the Covenant.

The State party should take all measures, including legislation, to combat and eradicate the practice of female genital mutilation.

13. The Committee is concerned that the criminalization of abortion leads to unsafe abortions which account for a high rate of maternal mortality.

The State party must take measures to protect the life of all persons, including pregnant women.

14. The Committee recognizes that no death sentences have been carried out during the period under review, but is concerned that the death penalty is still being imposed, and that some of the crimes still punishable by the death penalty, such as secession, espionage or incitement to war are loosely defined.

The State party is urged to ensure that the death penalty may be imposed only for the most serious crimes and to consider abolishing capital punishment altogether (art 6).

15. The Committee is seriously concerned about allegations of widespread extrajudicial executions, particularly in connection with the operation by security forces to combat armed robbery. The Committee is also concerned about the death of detainees, including through torture and ill-treatment of prisoners.

The State party is urged to overcome impunity and ensure that all allegations of killings by security forces are promptly investigated, the responsible persons brought to justice and the victims compensated.

16. The Committee is concerned by the existence of private militia, in particular those that act as "coupeurs de routes".

The State party should combat the phenomenon in order to eradicate it.

17. The Committee is seriously concerned at reports about abuse of the use of weapons by the police, leading to loss of life.

To secure compliance with articles 6 and 7 of the Covenant, the State party must take firm measures to limit the use of force by the police, to investigate all complaints regarding the use of force by the police and take appropriate action when the use is in violation of the relevant regulations.

18. The Committee is further seriously concerned at reports on disappearances of persons.

The State party must carry out investigations of disappearances and provide compensation to victims, or families.

19. The Committee is deeply concerned that a person held in administrative detention, under article 2 of Law No. 90/024 (19 December 1990), may have his detention extended indefinitely with the authorisation of the Provincial Governor or the Minister for Territorial Administration, and that such person has no remedy by way of appeal or application of habeas corpus.

The State party should take immediate steps to bring the law into compliance with article 9 paragraphs 3 and 4 of the Covenant and ensure that the condition in which any such person is held comply with the Covenant.

20. The Committee is concerned about the continued practice of torture by police officials and about the absence of an independent organ for investigation. The Committee acknowledges the information provided by the Delegation about the prosecution of certain cases of torture. However, it regrets that the Delegation did not provide any information concerning the number of complaints of torture, the methods of investigating such reports, or of the remedies offered to the victims.

The State party should establish an independent mechanism to investigate reports of torture in order to comply with article 7 of the Covenant.

21. The Committee is concerned about the jurisdiction of military courts over civilians and about the extension of that jurisdiction to offences which are not per se of a military nature, for example all offences involving fire-arms. The Committee is further concerned about reports whereby a person who was discharged by civilian judicial authorities may be brought before a different tribunal for trial, in contravention of article 14 paragraph 7.

The State party should ensure that the jurisdiction of military tribunals be limited to military offences committed by military personnel. It must also avoid that any person be liable to be tried or punished again for an offence for which he/she has already been finally convicted or acquitted of.

22. The Committee is concerned that citizens' passports can be removed by the police on the order of the public prosecutor, but that no information has been provided as to the criteria adopted by the prosecutor in giving such an order in that procedure.

Such criteria should be examined so as to ensure that they are compatible with the freedom of everyone to leave his own country under article 12, paragraphs 2, and 3, of the Covenant.

23. The Committee deplores the fact that prison conditions in Cameroon are characterized by severe overcrowding, inadequate food and medical care.

The Committee urges the State party to address the issue of prison overcrowding as a matter of priority and to ensure that prisoners are treated with humanity, in keeping with article 10 of the Covenant.

24. The Committee is deeply concerned at the prosecution and punishment of journalists for the crime of publication of false news merely on the ground, without more, that the news was false, in clear violation of article 19 of the Covenant.

The State party must ensure that any law restricting freedom of expression, meets all the requirements set out in article 19, paragraph 3 of the Covenant.

25. The Committee recommends early action to review and reform laws relating to criminal defamation, to bring them into conformity with article 19 of the Covenant.

26. The Committee is concerned with the information provided by the State party, in respect of the follow-up on the Committee's decisions on an individual case Mukong v. Cameroon (Case No. 458/1991), where the Committee has established a violation of the Covenant. In particular, the Committee does not consider it appropriate to expect a person found to be a victim of a human right violation to have to submit still more information to the Cameroonian courts in order to obtain compensation.

The State party is urged to provide a remedy in accordance with the views adopted by the Committee on the individual case considered under the Optional Protocol.

27. The Committee regrets that the independence of the National Committee on Human Rights and Freedoms is not ensured, that its reports to the Head of State are not made public and that there is no evidence that any remedies have been provided or prosecutions initiated as a result of its work.

The State party is urged to ensure the independence of the National Committee and that publicity is given to its work and recommendations.

D. Date of examination of the fourth periodic report; dissemination of Information

28. The Committee urges the State party to make available to the public as well as to the legislative and administrative authorities the text of the Covenant and of these concluding observations in the languages used by the population and to disseminate the Covenant by appropriate measures so that everyone becomes aware of their rights. The State party's next report should be prepared on an article by article basis, in accordance with the Committee's new Guidelines (CCPR/C/66/GUI) and should give particular attention to the issues raised by the Committee in these Concluding Observations. The Committee sets the date for the submission of Cameroon's fourth periodic report as 31 October 2003.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Hong Kong Special Administrative Region

1. The Committee considered the fifth periodic report of the Hong Kong Special Administrative Region (CCPR/C/HKSAR/99/1 and supplementary information CCPR/C/HKSAR/99/1/Add.1) at its 1803rd to 1805th meetings (CCPR/C/SR.1803-SR.1805), held on 1 and 2 November 1999. This report is the first submitted by the People's Republic of China after the return of HKSAR to Chinese sovereignty on 1 July 1997. The Committee adopted, at its 1810th meeting (sixty-seventh session) held on 4 November 1999, the following concluding observations.

A. Introduction

2. The Committee expresses appreciation to the delegation from HKSAR for the information it provided and for its willingness to submit further information in writing. It further welcomes the recognition given by the delegation to the contribution made by NGOs to the consideration of the HKSAR report.

3. The Committee thanks the People's Republic of China for its willingness to participate in the reporting procedure under article 40 of the Covenant by submitting the report prepared by the HKSAR authorities and by introducing the HKSAR delegation to the Committee. The Committee affirms its earlier pronouncements on the continuity of the reporting obligations in relation to Hong Kong.

B. Positive aspects

4. The Committee notes that article 39 of the Basic Law provides that the provisions of the Covenant as applied to HKSAR shall remain in force and shall be implemented through the laws of HKSAR. The Committee welcomes the fact that the primacy of the Covenant is ensured in domestic legislation by a combination of articles 39 and 11 of the Basic Law.

5. The Committee welcomes the efforts undertaken by the HKSAR to give publicity to its report and its commitment to give wide dissemination to the Committee's concluding observations.

6. The Committee welcomes the efforts undertaken by HKSAR to educate civil society about human rights. In particular, the Committee welcomes the great number of training courses, workshops and seminars conducted in HKSAR for all sectors of the population, including the civil service, the judiciary, the police and the educational establishments.

7. The Committee welcomes the steps taken by HKSAR to promote gender equality through educational campaigns and appropriate legislation.

C. Principal subjects of concern and recommendations

8. The Committee is concerned that most of the recommendations formulated in the Committee's concluding observations (published in A/51/40, paras. 66-72; A/52/40, paras. 84-85) have not yet been implemented.

9. The Committee remains concerned that there is no independent body established by law to investigate and monitor human rights violations in HKSAR and the implementation of Covenant rights.

10. The Committee is seriously concerned at the implications for the independence of the judiciary of the request by the Chief Executive of HKSAR for a reinterpretation of article 24 (2)(3) of the Basic Law by the Standing Committee of the National People's Congress (NPC) (under article 158 of the Basic Law) following upon the decision of the Court of Final Appeal (CFA) in the Ng Ka Ling and Chan Kam Nga cases, which placed a particular interpretation on article 24 (2)(3). The Committee has noted the statement of the HKSAR that it would not seek another such interpretation except in highly exceptional circumstances. Nevertheless, the Committee remains concerned that a request by the executive branch of government for an interpretation under article 158 (1) of the Basic Law could be used in circumstances that undermine the right to a fair trial under article 14.

11. The Committee takes the view that the Independent Police Complaints Council has not the power to ensure proper and effective investigation of complaints against the police. The Committee remains concerned that investigations of police misconduct are still in the hands of the police themselves, which undermines the credibility of these investigations.

The HKSAR should reconsider its approach on this issue and should provide for independent investigation of complaints against the police.

12. The Committee reiterates its concern, expressed in paragraph 19 of its concluding observations, adopted at the end of the consideration of the fourth periodic report, that the electoral system for the Legislative Council does not comply with articles 2, paragraphs 1, 25 and 26 of the Covenant. The Committee is concerned about the impending abolition of the Municipal Councils that would further diminish the opportunity of HKSAR residents to take part in the conduct of public affairs, that is guaranteed under article 25.

The HKSAR should reconsider this step. It should take all necessary measures to maintain and strengthen democratic representation of HKSAR residents in public affairs.

13. The Committee is concerned that the Interception of Communications Ordinance, which was passed in June 1997 in order to restrict the power of the authorities to intercept communications, has not yet been brought into effect. Section 33 of the Telecommunication Ordinance and Section 13 of the Post Office Ordinance still continue to be in force, thus allowing the authorities to violate the right to privacy under article 17 of the Covenant.

The HKSAR must ensure that its law and practice protect the rights guaranteed under article 17.

14. In the light of the fact that the Covenant is applied in HKSAR subject to a reservation that seriously affects the application of article 13 in relation to decision-making procedures in deportation cases, the Committee remains concerned that persons facing a risk of imposition of the death penalty or of torture, or inhuman, cruel or degrading treatment as a consequence of their deportation from HKSAR may not enjoy effective protection.

In order to secure compliance with articles 6 and 7 in deportation cases, the HKSAR should ensure that their deportation procedures provide effective protection against the risk of imposition of the death penalty or of torture or inhuman, cruel or degrading treatment.

15. The Committee remains concerned that no legislative remedies are available to individuals in respect of discrimination on the grounds of race or sexual orientation.

Necessary legislation should be enacted in order to ensure full compliance with article 26 of the Covenant.

16. The Committee is concerned that the educational system in HKSAR discriminates against girls in selection for secondary schools, that considerable differences exist in the earning levels between men and women, that women are under-represented in public boards and public offices, and that there is discrimination against women in the Small Home Policy.

The HKSAR should adopt positive measures to overcome discrimination against women and should ensure equal pay for work of equal value.

17. The Committee is concerned that the age of criminal responsibility is seven years and takes note of the statement by the Delegation that the Law Reform Commission is currently conducting a review of this matter.

The age of criminal responsibility should be raised so as to ensure the rights of children under article 24.

18. The Committee is concerned that the offences of treason and sedition under the Crimes Ordinance are defined in overly broad terms, thus endangering freedom of expression guaranteed under article 19 of the Covenant.

All laws enacted under article 23 of the Basic Law must be in conformity with the Covenant.

19. With regard to freedom of assembly, the Committee is aware that there are very frequent public demonstrations in HKSAR and takes note of the delegation's statement that permission to hold demonstrations is never denied. Nevertheless, the Committee is concerned that the Public Order Ordinance could be applied to restrict unduly enjoyment of the rights guaranteed in article 21 of the Covenant.

The HKSAR should review this Ordinance and bring its terms into compliance with article 21 of the Covenant.

20. With regard to freedom of association, the Committee is concerned that the Societies Ordinance may be applied in a way to restrict unduly the enjoyment of Article 22 rights.

The HKSAR should review this Ordinance so as to ensure full protection of the right to freedom of association, including trade union rights, under article 22 of the Covenant.

D. Date of examination of the sixth periodic report; dissemination of information

21. The Committee sets the date for the submission of the next periodic report as 31 October 2003. That report should be prepared in accordance with the Committee's new Guidelines (CCPR/C/66/GUI/Rev.1) and should give particular attention to the issues raised by the Committee in these Concluding Observations. The Committee urges that the text of these Concluding Observations be made available to the public as well as to the legislative and administrative authorities. It requests that the next periodic report be widely disseminated among the public, including civil society and non-governmental organizations operating in HKSAR.